

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:

WISAL A. HAJYASIN  
A/K/A WISAL AL HAJYASIN

Debtor(s)

Chapter 13  
Case No. 17-04864

Judge TIMOTHY A. BARNES

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that on January 10, 2019, at the hour of 9:30 A.M., I shall appear before the Honorable Judge TIMOTHY A. BARNES, Room 744, of the McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, and then and there move the Court pursuant to the attached Motion, at which time and place you may appear if you see fit.

/s/ Timothy R. Yueill

By: Timothy R. Yueill, Esq.

**Served upon the following parties electronically:**

JOSEPH S. DAVIDSON, SULAIMAN LAW GROUP, LTD, 2500 S. HIGHLAND AVE., SUITE 200, LOMBARD, IL 60148- Counsel for Debtor(s)

MARILYN O MARSHALL, 224 SOUTH MICHIGAN, STE. 800, CHICAGO, IL 60604 - Trustee

PATRICK S. LAYNG, OFFICE OF THE U.S. TRUSTEE, REGION 11, 219 S. DEARBORN ST., ROOM 873, CHICAGO, IL 60604 - U.S. Trustee

**and served upon the following parties by mail:**

WISAL A. HAJYASIN A/K/A WISAL AL HAJYASIN, 2428 W. BERWYN AVE., UNIT 2S, CHICAGO, IL 60625-2306 - Debtor(s)

**Certification of Service**

I, the undersigned, an attorney, hereby certified that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustees and Debtor(s)' counsel via electronic through ECF on December 19, 2018, and as to the Debtor(s) by causing same to be mailed in a properly addressed envelope, postage prepaid, in the U.S. Mail Chute at 175 North Franklin, Chicago, Illinois, before the hour of 5:00 p.m., on December 19, 2018.

By: /s/ Timothy R. Yueill

**LAW OFFICES OF IRA T. NEVEL, LLC**

Ira T. Nevel

Timothy R. Yueill

Greg Elsnic

Richard Drezek

Aaron Nevel

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MO

# 17-01697

THIS FIRM IS A DEBT COLLECTOR

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WISAL A. HAJYASIN  
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Debtor(s)

Chapter 13  
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**MOTION FOR RELIEF FROM AUTOMATIC STAY**

NOW COMES Select Portfolio Servicing, Inc., as servicer for U.S. Bank, National Association, as Trustee for the EMC Mortgage Loan Trust 2004-A, Mortgage Pass-through Certificates Series 2004-A, a secured creditor herein, by and through its counsel, LAW OFFICES OF IRA T. NEVEL, LLC and moves this Honorable Court for an Order granting relief from the Automatic Stay in effect as to this creditor, and in support thereof, states as follows:

1. Jurisdiction is proper and venue is fixed in this Court with respect to these parties.
2. The Debtor herein filed a Petition under Chapter 13 of Title 11, United States Bankruptcy Code on February 20, 2017.
3. Said Creditor is a mortgagee lien holder on the real property commonly known as 2428W BERWYN, CHICAGO, IL 60625.
4. The debtor has executed and delivered or otherwise obligated with respect to that certain promissory note (the "Note"). A copy of the Note is attached hereto as Exhibit A. Movant is an entity entitled to enforce the Note.
5. Pursuant to that certain Mortgage (the "Mortgage"), all obligations (collectively, the "Obligations") of the Debtor under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit B.
6. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to those certain assignments of mortgage, copies of which are attached hereto as Exhibits C-1, C-2.
7. That enforcement of said security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code.
8. The Chapter 13 Plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceedings.

9. Pursuant to the Plan, the Debtor is to disburse the post-petition monthly mortgage payments directly to this Creditor.

10. That this Creditor is entitled to relief from the Automatic Stay under 11 U.S.C. §362(d) as the Debtor is past due for the April 1, 2018 payment through and including December 1, 2018. Payments are in the sum of (4/18-7/18) \$623.97, (8/18-10/18) \$700.22 and (11/18-12/18) \$725.49 each, with the total post-petition default through and including the December 1, 2018 in the amount of \$6047.52 (with \$22.95 being held in suspense) for a total default of \$6024.57.

11. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the Automatic Stay for cause pursuant to 11 U.S.C. §362(d)(1).

12. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested herein, Movant reserves all right to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

13. That this Court has the authority to order that Rule 4001(a)(3) is not applicable to the Order entered in granting this Motion, and this Creditor requests this Court to so order.

14. Select Portfolio Servicing, Inc., as servicer for Select Portfolio Servicing, Inc., as servicer for U.S. Bank, National Association, as Trustee for the EMC Mortgage Loan Trust 2004-A, Mortgage Pass-through Certificates Series 2004-A, has the right to foreclose by virtue of being owner and holder of note.

*WHEREFORE*, this Creditor, Select Portfolio Servicing, Inc., as servicer for U.S. Bank, National Association, as Trustee for the EMC Mortgage Loan Trust 2004-A, Mortgage Pass-through Certificates Series 2004-A, prays that this Court enter an Order, pursuant to 11 U.S.C. §362(d), granting relief from the Automatic Stay and for such other additional relief as this Court may deem fit.

Law Offices of Ira T. Nevel, LLC

/s/ Timothy R. Yueill

By: Timothy R. Yueill, Esq.  
Counsel for Select Portfolio Servicing, Inc., as  
servicer for U.S. Bank, National Association, as  
Trustee for the EMC Mortgage Loan Trust 2004-  
A, Mortgage Pass-through Certificates Series  
2004-A

**LAW OFFICES OF IRA T. NEVEL, LLC**

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